
A BILL FOR AN ACT

RELATING TO THE EMPLOYEES' RETIREMENT SYSTEM.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The purpose of this Act is to establish a clear
2 statutory basis for the recovery of overpayments of employees'
3 retirement system benefits. This Act declares overpaid member
4 benefits to be a debt due and owing to the employees' retirement
5 system and authorizes the employees' retirement system to adopt
6 and enforce such rules and regulations as may be necessary to
7 recover overpaid member benefits. In addition, this Act
8 provides the board of trustees or the executive director of the
9 employees' retirement system with the discretion to waive the
10 recovery of overpayments in cases of bona fide hardship or where
11 the costs of recovery would exceed the amount expected to be
12 recovered.

13 SECTION 2. Section 88-6, Hawaii Revised Statutes, is
14 amended to read as follows:

15 "§88-6 Payment of refunds and retirement benefits. (a)
16 Notwithstanding any other provision of this chapter:



1 (1) All retirees and beneficiaries of the state retirement
2 system or county pension funds shall be paid
3 semimonthly; provided that:

4 (A) All retirees and beneficiaries of the state
5 retirement system who either retire or become
6 beneficiaries after January 1, 2003, shall be
7 paid monthly; and

8 (B) Effective July 1, 2011, all retirees and
9 beneficiaries of the state retirement system
10 shall be paid monthly; provided that this
11 subparagraph shall not apply to any retiree or
12 beneficiary who:

13 (i) Became a retiree or beneficiary prior to
14 January 1, 2003;

15 (ii) Is eighty years of age or older on
16 January 1, 2011; and

17 (iii) Receives \$800 or less of pension benefits
18 each month; and

19 (2) Any retiree or beneficiary of the state retirement
20 system whose benefit commences after June 30, 2001,
21 shall designate a financial institution account into



1 which the system shall be authorized to deposit their
2 retirement benefit; and effective April 1, 2011, all
3 retirees and beneficiaries of the state retirement
4 system shall designate a financial institution account
5 into which the system shall be authorized to deposit
6 their state retirement system benefits. This method
7 of payment may be waived by the system.

8 (b) Any member, former employee, retirant, or beneficiary
9 to whom accumulated contributions or a hypothetical account
10 balance, as defined in section 88-311, is payable after June 30,
11 2008, [~~shall,~~] if the payment will be greater than \$250 and the
12 member, former employee, retirant, or beneficiary does not elect
13 to rollover the payment into an eligible retirement plan, shall
14 designate a financial institution account into which the system
15 shall be authorized to deposit the payment. This method of
16 payment may be waived by the system if another method is
17 determined to be more appropriate.

18 (c) All overpayments of refunds and retirement benefits,
19 including but not limited to the over issuance of death
20 benefits, beneficiary benefits, payments to alternate payees,
21 and adjustment payments, shall constitute a debt due and owing



1 to the system by the recipient of such overpayments. In
2 addition to the remedies elsewhere prescribed in this chapter
3 for the recovery of benefits, recovery of all overpayments shall
4 be made in accordance with applicable state law and federal
5 regulations. The system shall adopt and enforce rules as may be
6 necessary to effect the maximum recovery of retirement benefit
7 overpayments. System rules for the recovery of overpayments
8 shall prescribe procedures for recourse to the civil courts when
9 required, the filing of liens against the real property of
10 overpaid recipients, and the filing of claims against the estate
11 of a deceased recipient who has received overpayments that have
12 not been recovered. Nothing in this section shall preclude the
13 board of trustees or the executive director of the system from
14 adopting procedures for waiving the recovery of overpayments in
15 cases of bona fide hardship or where the costs of recovery would
16 exceed the amount expected to be recovered."

17 SECTION 3. Section 88-106, Hawaii Revised Statutes, is
18 amended to read as follows:

19 "§88-106 **Correction of errors.** Should any change or error
20 in records result in any member, retirant, or beneficiary
21 receiving from the system more or less than the member,



1 retirant, or beneficiary would have been entitled to receive had
2 the records been correct, the board of trustees shall correct
3 the error and as far as practicable, shall adjust the payments
4 in such a manner that the actuarial equivalent of the benefit to
5 which the member, retirant, or beneficiary was correctly
6 entitled shall be paid. Should any error in calculation or
7 records result in any member, retirant, or beneficiary receiving
8 from the system more than the member, retirant, or beneficiary
9 would have been entitled to receive had the calculation or
10 records been correct, the board of trustees shall correct the
11 error and [~~may forgive~~] shall recover any such overpayment[.]
12 unless recovery is waived pursuant to procedures adopted under
13 section 88-6."

14 SECTION 4. Statutory material to be repealed is bracketed
15 and stricken. New statutory material is underscored.

16 SECTION 5. This Act shall take effect on January 1, 2050.



Report Title:

ERS; Retirement Benefit Overpayments; Recovery

Description:

Specifies that overpayments of refunds and retirement benefits constitute a debt due and owing to the ERS by recipients of overpayments. Authorizes the ERS to adopt and enforce rules to recover retirement benefit overpayments. Authorizes waiver of benefit overpayments in cases of hardship or where the costs of recovery exceed the amount to be recovered. Takes effect 1/1/2050. (SD1)

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